

Report on

Market Conduct Examination

of the

Occidental Fire & Casualty Company of North Carolina
Wilshire Insurance Company

Raleigh, North Carolina

by Representatives of the
North Carolina Department of Insurance

as of

September 22, 2014

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Raleigh, North Carolina
September 22, 2014

Honorable Wayne Goodwin
Commissioner of Insurance
Department of Insurance
State of North Carolina
Dobbs Building
430 N. Salisbury Street
Raleigh, North Carolina 27603

Honorable Commissioner:

Pursuant to your instructions and in accordance with the provisions of North Carolina General Statute (NCGS) 58-2-131 through 58-2-134, a target examination has been made of the market conduct activities of

Occidental Fire & Casualty Company of North Carolina (NAIC #23248)
Wilshire Insurance Company (NAIC #13234)

NAIC Exam Tracking System Exam Number: NC299-M57
Raleigh, North Carolina

hereinafter generally referred to as the Companies, at the Companies' home office located at 702 Oberlin Road, Raleigh, North Carolina and at the North Carolina Department of Insurance (Department) office located at 11 S. Boylan Avenue, Raleigh, North Carolina. A report thereon is respectfully submitted.

FOREWORD

This examination reflects the North Carolina insurance activities of Occidental Fire & Casualty Company of North Carolina and Wilshire Insurance Company. The examination is, in general, a report by exception. Therefore, much of the material reviewed will not be contained in this written report, as reference to any practices, procedures, or files that revealed no concerns were omitted.

SCOPE OF EXAMINATION

This examination commenced on July 14, 2014, and covered the period of January 1, 2009, through December 31, 2013, with analyses of certain operations of the Companies being conducted through September 22, 2014. All comments made in this report reflect conditions observed during the period of the examination.

The examination was arranged and conducted by the Department. It was made in accordance with Market Regulation standards established by the Department and procedures established by the National Association of Insurance Commissioners (NAIC) and accordingly included tests of marketing, underwriting practices, and terminations.

It is the Department's practice to cite companies in violation of a statute or rule when the results of a sample show errors/noncompliance at or above the following levels: 0 percent for producers who were not appointed and/or licensed, and the use of forms and rates/rules that were neither filed with nor approved by the Department; and 10 percent for all other areas reviewed.

EXECUTIVE SUMMARY

This market conduct examination revealed concerns with the Companies' procedures and practices in the following areas:

Marketing – Policy Forms and Filings - Private Passenger Automobile: Use of unfiled new business application and declaration page; and Commercial Inland Marine: Use of unfiled new business application.

Underwriting Practices – Private Passenger Automobile: Producers not properly appointed and rating errors; Commercial Automobile: Producers not properly appointed; and Commercial Inland Marine: Rating errors.

Terminations – Private Passenger Automobile Cancellations: Incomplete file documentation; and Private Passenger Automobile Nonrenewals: Files were not provided.

Specific violations related to each area of concern are noted in the appropriate section of this report. All North Carolina General Statutes and rules of the North Carolina Administrative Code cited in this report may be viewed on the North Carolina Department of Insurance Web site www.ncdoi.com, by clicking “INSURANCE DIVISIONS” then “Legislative Services”.

This examination identified various non-compliant practices, some of which may extend to other jurisdictions. The Companies are directed to take immediate corrective action to demonstrate their ability and intention to conduct business in North Carolina according to its insurance laws and regulations. When applicable, corrective action for other jurisdictions should be addressed.

All statutory violations may not have been discovered or noted in this report. Failure to identify statutory violations in North Carolina or in other jurisdictions does not constitute acceptance of such violations.

MARKETING

Policy Forms and Filings

Policy forms and filings for the Companies were reviewed to determine compliance with appropriate North Carolina statutes and rules. We reviewed the following lines of business:

1. Private Passenger Automobile
2. Commercial Automobile
3. Commercial Inland Marine

Filings for the private passenger automobile and commercial automobile lines of business were made by the North Carolina Rate Bureau on behalf of the Companies.

Deviations for these lines of business were made to the Department by the Companies. The commercial inland marine line of business is an independently filed program.

The Companies were deemed to be in violation of the provisions of NCGS 58-3-150(a) and 11 NCAC 10.1201(c) as the private passenger automobile new business application and declaration page had not been filed with and approved by the Department.

The Companies were deemed to be in violation of the provisions of NCGS 58-41-50(a) for the use of a commercial inland marine new business application that was not filed with and approved by the Department.

UNDERWRITING PRACTICES

Overview

The Companies' marketing philosophy in North Carolina is directed to personal and commercial lines of business. The Companies provided the examiners with listings of the following types of active policies for the period under examination:

1. Private Passenger Automobile
2. Commercial Automobile
3. Commercial Inland Marine

A random selection of 191 policies was made from a total population of 13,993. Each policy was reviewed for adherence to underwriting guidelines, file documentation, and premium determination. Additionally, the policies were examined to determine compliance with the appropriate North Carolina statutes and rules, policy provisions, and the applicable policy manual rules.

Private Passenger Automobile

The Companies provided a listing of 9,489 active private passenger automobile policies issued during the period under examination. One hundred policies were randomly selected for review. Four policies were not provided. We reviewed the remaining 96 policies.

The Companies' private passenger automobile policies were written on a six or 12 month basis. Liability coverages were written utilizing manual rates. Physical damage

coverages were written on a consent to rate basis. Risk placement was determined by the Company's underwriting guidelines and the underwriter. No discrepancies were noted in the Companies' use of their underwriting guidelines. All policy files contained sufficient documentation to support the Companies' classification of the risk.

The Companies were deemed to be in violation of the provisions of NCGS 58-33-26 and 58-33-40 as the producer was not properly appointed by the Companies for 37 of the active files reviewed (38.5 percent error ratio).

The Companies were deemed to be in violation of the provisions of NCGS 58-37-35(l) as 14 policies reviewed (14.6 percent error ratio) contained a total of 15 rating errors. The rating errors consisted of the following:

- Incorrect base rates were applied on seven policies.
- An incorrect territory was used on one policy.
- Safe Driver Incentive Plan points (SDIP) should have been applied on one policy.
- An incorrect inexperienced operator surcharge was applied on one policy.
- The Uninsured Motorist Property Damage premium was incorrect on one policy.
- One insured was not charged for the Bodily Injury and Property Damage coverage that was provided.
- The Physical Damage premium charged on three policies was below the North Carolina Rate Bureau premium with no downward deviation filed with the Department.

The rating errors resulted in seven premium overcharges and seven premium undercharges to the insureds. At the request of the examiners, refunds in the amount of \$213.13 were issued by the Companies for the overcharges. The remaining premiums charged were deemed correct.

Commercial Automobile

The Companies provided a listing of 4,463 active commercial automobile policies issued during the period under examination. Fifty policies were randomly selected for review.

The Companies' commercial automobile coverages were written utilizing independently filed and manual rates. Policies were written on an annual basis. Risk placement was determined by the Companies' underwriting guidelines and the underwriter. No discrepancies were noted in the Companies' use of their underwriting guidelines. All policy files contained sufficient documentation to support the Companies' application of their rates and premiums charged.

The Companies were deemed to be in violation of the provisions of NCGS 58-33-26 and 58-33-40 as the producer was not properly appointed by the Companies for 49 of the active files reviewed (98.0 percent error ratio).

Commercial Inland Marine

The entire population of 41 active commercial inland marine policies was selected for review.

The Companies' commercial inland marine policies were written on an annual basis. Coverages were written utilizing independently filed rates. Risk placement was determined by the Companies' underwriting guidelines and the underwriter. No discrepancies were noted in the Companies' use of their underwriting guidelines. All policy files reviewed contained sufficient documentation to support the Companies' classification of the risk.

The Companies were deemed to be in violation of the provisions of NCGS 58-41-50(f) as 40 policies reviewed (97.6 percent error) were not rated in accordance with filings made with the Department. The rating errors resulted in three premium overcharges and 37 premium undercharges to the insureds. At the request of the examiners, refunds in the amount of \$1,021.00 were issued by the Companies for the overcharges. The remaining premiums were deemed correct.

TERMINATIONS

Overview

The Companies' termination procedures were reviewed to determine compliance with the appropriate North Carolina statutes and rules, policy provisions, and the applicable policy manual rules. We reviewed the following lines of business:

1. Private Passenger Automobile
2. Commercial Automobile
3. Commercial Inland Marine

Special attention was placed on the validity and reason for termination, timeliness in issuance of the termination notice, policy refund (where applicable), and documentation of the policy file. A total of 9,110 policies were terminated during the period under examination. The examiners randomly selected 219 terminations for review.

Private Passenger Automobile Cancellations

One hundred cancelled private passenger automobile policies were randomly selected for review from a population of 8,493. One file was not provided. We reviewed the remaining 99 files.

The reason for cancellation was deemed valid for all policies reviewed. The review revealed the following reasons for cancellation:

Reason for Cancellation	Number of Policies	Percentage
Nonpayment of premium	71	72.0
Premium finance company request	14	14.0
Insured's request	13	13.0
Coverage rewritten	1	1.0
Total	99	100.0

The Companies were not required to issue cancellation notices for 28 of the cancellations reviewed as these policies were cancelled at the request of the insured, the premium finance company, or the coverage was rewritten. The Companies were deemed to be in violation of the provisions of 11 NCAC 19.0102(a), 19.0104, and 19.0106(a)(4) as 14 files

reviewed (14.1 percent error ratio) contained incomplete file documentation. Two files did not contain a copy of the notice of cancellation sent to the insured and 14 files did not contain proof of mailing of the cancellation notice. Cancellation notices for the remaining 69 policies stated the specific reason for cancellation.

The Companies issued the refunds in a timely manner. All policy files contained sufficient documentation to support the action taken by the Companies. The Companies sent the North Carolina Notice of Termination form (FS-4) to the North Carolina Division of Motor Vehicles (DMV) when liability coverage was cancelled.

Commercial Automobile Cancellations

Fifty cancelled commercial automobile policies were randomly selected for review from a population of 512.

The reason for cancellation was deemed valid for all policies reviewed. The review revealed the following reasons for cancellation:

Reason for Cancellation	Number of Policies	Percentage
Premium finance company request	25	50.0
Insured's request	17	34.0
Nonpayment of premium	7	14.0
Underwriting reason	1	2.0
Total	50	100.0

The Companies were not required to issue cancellation notices for 42 of the cancellations reviewed as these policies were cancelled at the request of the insured or the premium finance company. Cancellation notices for the remaining eight policies stated the specific reason for cancellation. The Companies issued the refunds in a timely manner.

The final area of this review encompassed documentation of the policy file. All policy files reviewed contained sufficient documentation to support the action taken by the Companies.

Commercial Inland Marine Cancellations

The entire population of 14 cancelled commercial inland marine policies was selected for review.

The reason for cancellation was deemed valid for all policies reviewed. The review revealed the following reasons for cancellation:

Reason for Cancellation	Number of Policies	Percentage
Insured's request	8	57.1
Nonpayment of premium	3	21.4
Premium finance company request	2	14.3
Underwriting reasons	1	7.2
Total	14	100.0

The Companies were not required to issue cancellation notices for ten of the cancellations reviewed as these policies were cancelled at the request of the insured or the premium finance company. Cancellation notices for the remaining four policies stated the specific reason for cancellation.

All premium refunds were deemed correct. The Companies issued the refunds in a timely manner.

The final area of this review encompassed documentation of the policy file. All policy files reviewed contained sufficient documentation to support the action taken by the Companies.

Private Passenger Automobile Nonrenewals

Fifty nonrenewed private passenger automobile policies were randomly selected for review from a population of 86. The Companies were deemed to be in violation of the provisions of 11 NCAC 19.0102(a), 19.0104, and 19.0106(a)(4) as five files were not provided for review (10.0 percent error ratio). We reviewed the remaining 45 files.

The reason for nonrenewal was deemed valid for all policies reviewed. The review revealed the following reason for nonrenewal:

Reason for Nonrenewal	Number of Policies	Percentage
Producer no longer appointed	45	100.0
Total	45	100.0

The nonrenewal notices for the policies reviewed stated the specific reason for nonrenewal.

The final area of this review encompassed documentation of the policy file. All policy files reviewed contained sufficient documentation to support the action taken by the Companies.

Commercial Automobile Nonrenewals

The entire population of three nonrenewed commercial automobile policies was selected for review.

The reason for nonrenewal was deemed valid for all policies reviewed. The review revealed the following reason for nonrenewal:

Reason for Nonrenewal	Number of Policies	Percentage
Underwriting reasons	3	100.0
Total	3	100.0

The nonrenewal notices for the policies reviewed stated the specific reason for nonrenewal.

The final area of this review encompassed documentation of the policy file. All policy files reviewed contained sufficient documentation to support the action taken by the Companies.

Commercial Inland Marine Nonrenewals

The entire population of two nonrenewed commercial inland marine policies was selected for review.

The reason for nonrenewal was deemed valid for all policies reviewed. The review revealed the following reason for nonrenewal:

Reason for Nonrenewal	Number of Policies	Percentage
Underwriting reasons	2	100.0
Total	2	100.0

The nonrenewal notices for the policies reviewed stated the specific reason for nonrenewal.

The final area of this review encompassed documentation of the policy file. All policy files reviewed contained sufficient documentation to support the action taken by the Companies.

COMMENTS, RECOMMENDATIONS AND DIRECTIVES

The Companies should reinforce the procedures that have been put in place since bringing the private passenger automobile business in house to ensure that all policy forms are filed with and approved by the Department, producers who submit applications for insurance to the Companies are properly appointed, and policies are rated correctly. In addition, commercial business should continue to be monitored to ensure that proper procedures are being followed by the Managing General Agents and to determine if additional training is needed.

CONCLUSION

An examination has been conducted on the market conduct affairs of Occidental Fire & Casualty Company of North Carolina and Wilshire Insurance Company for the period January 1, 2009, through December 31, 2013, with analyses of certain operations of the Companies being conducted through September 22, 2014.

This examination was conducted in accordance with the North Carolina Department of Insurance and the National Association of Insurance Commissioners Market Regulation

Handbook procedures, including analyses of the Companies' operations in the areas of marketing, underwriting practices, and terminations.

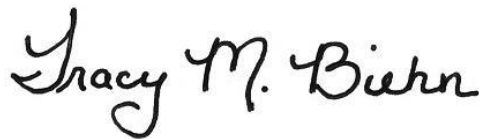
In addition to the undersigned, Gina Abate, North Carolina Market Conduct Examiner, participated in this examination.

Respectfully submitted,

A handwritten signature in cursive script that reads "Norma M. Rafter".

Norma M. Rafter, CPCU
Examiner-In-Charge
Market Regulation Division
State of North Carolina

I have reviewed this examination report and it meets the provisions for such reports prescribed by this Division and the North Carolina Department of Insurance.

A handwritten signature in cursive script that reads "Tracy M. Biehn".

Tracy M. Biehn, LPCS, MBA
Deputy Commissioner
Market Regulation Division
State of North Carolina